

SERVICE DATE – MARCH 5, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 328X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
MARIETTA, LANCASTER COUNTY, PA.

Decided: March 5, 2014

Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 2.0 miles of rail line extending from milepost MU 83.9 (near S. Bridge Street) to milepost MU 85.9 (south of the intersection of Railroad Ave. and Old River Road), in the Borough of Marietta, Lancaster County, Pa. Notice of the exemption was served and published in the Federal Register on December 30, 2011 (76 Fed. Reg. 82,348). The exemption became effective on February 1, 2012. In the December 30, 2011 notice, the Board stated that, if consummation had not been effected by NSR's filing of a notice of consummation by December 30, 2012, and there were no legal regulatory barriers to consummation, the authority to abandon would automatically expire.¹ In a decision served on April 3, 2013, the Board granted, until December 30, 2013, an extension of time for NSR to exercise the abandonment authority and file a notice of consummation.

Under 49 C.F.R. § 1152.29(e)(2), a railroad may, for good cause, file a request for an extension of time to file a notice of consummation in abandonment proceedings. In a letter filed on January 10, 2014, NSR requests an extension, until December 30, 2014, to file its notice of consummation. In support, NSR states that it still plans on fully abandoning the line but that it cannot continue salvage of the track until warmer weather returns in the area of the proposed abandonment. NSR acknowledges that the correct consummation notice deadline in this case was December 30, 2013, and that NSR should have requested an extension earlier than that date, but due to a number of factors, including a transition of personnel, the deadline passed. NSR respectfully urges the Board to waive the 49 C.F.R. § 1152.29(e)(2) requirement and grant NSR's extension request.

NSR has shown good cause to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding. The consummation request was filed only 10 days late, and NSR has provided an adequate justification for its delay. Accordingly, the request will be granted.

¹ In a decision served on January 31, 2012 (January 2012 decision), the exemption was made subject to three environmental consultation conditions regarding salvage that remain in effect. These conditions are not barriers to NSR's consummation of the abandonment.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. NSR's request for an extension of time to consummate the abandonment is granted.
2. The authority to abandon must be exercised and the notice of consummation must be filed on or before December 31, 2014.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.